

HOUSE No. 3660**The Commonwealth of Massachusetts**

PRESENTED BY:

Carl M. Sciortino, Jr.*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to improve assessment and accountability to ensure students acquire 21st century skills.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Carl M. Sciortino, Jr.	34th Middlesex
Frank I. Smizik	15th Norfolk
Alice K. Wolf	25th Middlesex
Bill Bowles	2nd Bristol
Patricia D. Jehlen	Second Middlesex
Tom Sannicandro	7th Middlesex
Katherine Clark	32nd Middlesex
Matthew C. Patrick	3rd Barnstable
Stephen L. DiNatale	3rd Worcester
Robert L. Rice, Jr.	2nd Worcester
Mary E. Grant	6th Essex
Barbara A. L'Italien	18th Essex
Christine E. Canavan	10th Plymouth
David B. Sullivan	6th Bristol
James Dwyer	30th Middlesex
Louis L. Kafka	8th Norfolk
Pam Richardson	6th Middlesex
Kay Khan	11th Middlesex
Sarah K. Peake	4th Barnstable

Steven J. D'Amico	4th Bristol
Sean Garballey	23rd Middlesex
Elizabeth A. Malia	11th Suffolk
Denise Provost	27th Middlesex
James B. Eldridge	Middlesex and Worcester
Willie Mae Allen	6th Suffolk
Antonio F.D. Cabral	13th Bristol
Paul McMurtry	11th Norfolk
Cynthia Stone Creem	First Middlesex and Norfolk
Kenneth J. Donnelly	Fourth Middlesex
Ellen Story	3rd Hampshire
Michael Brady	9th Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO IMPROVE ASSESSMENT AND ACCOUNTABILITY TO ENSURE STUDENTS ACQUIRE 21ST CENTURY SKILLS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Whereas, Massachusetts has yet to fully realize the letter and spirit of the Education Reform Act of 1993, which called for a comprehensive assessment system composed of a variety of instruments and methods that are sensitive to different learning styles and barriers to learning such as English language proficiency and learning disabilities; and,

Whereas, to reach our aspirations for educational quality and equity, Massachusetts public schools need balanced systems of: evaluation, which is based on information on the functioning of students, staff, and schools; assessment, which is based on information about learning outcomes and progress; and accountability, which is holding schools and districts responsible for their practices and results; and,

Whereas, we need a system that reflects and supports high and broad aspirations for our children, and measures the breadth and depth of all the skills required for success in our changing world; and,

Whereas, such skills include the “21st Century skills” of creativity, critical thinking, problem solving, communication and collaboration, media and information literacy, flexibility, initiative, social and cross-cultural skills and understandings, leadership, self-motivation and responsibility; and,

Whereas, these skills are needed for students to succeed in college and skilled employment, but colleges and employers report that Massachusetts high school graduates still largely lack these capacities; and,

Whereas, achievement gaps remain unacceptably large, and dropout rates, already high before Education Reform, are rising among urban minority populations and among English language learners and students with disabilities; and,

Whereas, our current accountability structure suffers from an imbalance that places too much emphasis on standardized test outcomes and results in “goal distortion,” i.e., a diversion of attention from many important school goals to focus only on those that are measured by high stakes tests; and,

Whereas, a consequence of this goal distortion has been less social studies, science, art, music, and physical education, as well as lack of attention to the 21st century skills, particularly for low-income children; and,

Whereas, the federal No Child Left Behind law does not require that standardized tests be the form of assessment used by states and does not require test-based graduation requirements; and,

Whereas, local classroom-based assessments combined with limited state-wide assessments provide multiple sources of evidence of student learning and progress, together with an accreditation process, are needed to eliminate the goal distortion and narrowing that has resulted from the current system and ensure a balanced and comprehensive accountability system that addresses the full range of academic and other 21st century skills;

Therefore, the following amendments to the Massachusetts General Laws should be adopted to improve our education system, ensure that all students are afforded a quality education, and ensure high school graduates possess a reasonable breadth and depth of knowledge and skills.

SECTION 1. Section 1D of chapter 69 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding after the third paragraph the following new paragraph:-

Before taking effect, the standards shall be reviewed and approved by the state affiliate of the professional association representing the academic discipline, or its successor as the case may be, for each standard as follows: in mathematics by the National Council of Teachers of Mathematics; in English Language Arts by the National Council of Teachers of English, the International Reading Association, and the National Association of Bilingual Educators; in science and technology by the National Association of Science Teachers, the National Technology Education Association and the Association for Career and Technical Education; in health by the National Association for Health, Physical Education, Recreation and Dance, the American School Counselors Association and the National Association of School Psychologists; in the arts by the National Art Education Association, the National Alliance for the Arts and the National Music Educators Association; in social studies by the National Council for the Social Studies, the National Council for History Education and the National Geographic Alliance; and in foreign languages by the National Foreign Language Association.

SECTION 2. Section 1D of chapter 69 of the General Laws, as so appearing, is hereby amended by adding after the word “determination” in line 54 the following words:-

, according to the evaluation system established by the district or Commonwealth charter school according to section one I of this chapter.

SECTION 3. Section 1D of chapter 69 of the General Laws, as so appearing, is hereby amended by adding after the fifth paragraph, the following new paragraph:-

To fulfill the high school graduation competency determination, the state shall require students to pass a course in tenth grade English, a math course, a science or technology course, and a U.S. or world history course. The student's grade in each said course shall include an end-of-course examination developed by the board. Any such examination shall count for no more than twenty percent of a student's final grade in the course and shall have no other consequences for individual students. In any such examination, the state shall ensure that no more than twenty-five percent of the score will be obtained through use of multiple-choice or short-answer items, and at least seventy-five percent of the score in that examination will be obtained through performance assessment items appropriate to the subject. Performance assessment items shall include essays, tasks, projects, performances, exhibits, laboratory experiments, or other similar performance assessment items that are intended in significant part to assess student acquisition of 21st century skills, as defined in Section 1I. Such items may be scored by teachers in the local district where the student attends school. The board shall ensure quality control and comparability of scoring across schools and districts. Local school districts may be allowed to use their own assessments and not use the state end-of-course exams provided, however, that local assessments meet the other criteria in this chapter, are based on state standards, and are approved by the department.

SECTION 4. Section 1E of chapter 69 of the General Laws, as so appearing, is hereby amended by adding the following new paragraph at the end thereof:-

Before taking effect, the standards shall be reviewed and approved by the state affiliate of the professional association representing the academic discipline, or its successor as the case may be, for each standard as follows, as described in Section 1D.

SECTION 5. Section 1I of chapter 69 of the General Laws, as so appearing, is hereby amended by striking the first through fourth paragraphs, and inserting in place thereof the following paragraphs:-

Every ten years all public schools, including Commonwealth and Horace Mann charter schools, shall take the steps necessary to become accredited by the New England Association of Schools and Colleges, hereinafter referred to as NEASC. The governing school authority, if any, shall take all steps necessary to assist each school in its jurisdiction to achieve such accreditation. If, after four years from the beginning of the accreditation process, a school fails to achieve accreditation, fails to make significant progress toward accreditation, or is placed on probation status by the NEASC, the commissioner may initiate proceedings pursuant to section 1J of this chapter.

Each school district shall develop and adopt a system for evaluating on an annual basis the overall performance and progress of both the district and individual public schools within the district, including Horace Mann charter schools. Each Commonwealth charter school shall develop and adopt a system for evaluating on an annual basis the overall performance of the school. Each local evaluation system shall be designed to help improve the overall quality of the school and district in educating the whole child, measure outcomes and results regarding student learning and progress, and improve the effectiveness of curriculum and instruction. These would include outcomes in eight broad categories: basic academic knowledge and skills, critical thinking and problem-solving, appreciation of the arts and literature, preparation for skilled employment, social skills and work ethic, citizenship and community responsibility, physical health and emotional health. In its design and application, each evaluation system shall strike a balance among considerations of accuracy, fairness, expense and administration.

In both district and Commonwealth charter schools, the evaluation system shall include a criterion-referenced assessment system designed to measure current student academic status and the extent to which the school or district has succeeded in improving or has failed to improve student academic performance. Said performance shall be defined as student acquisition of the skills, competencies and knowledge called for by the academic standards and embodied in the curriculum frameworks established by the board pursuant to sections 1D and 1E, in the areas of mathematics, science and technology, history and social science, English, foreign languages, the arts, and health. The district may include other gauges of student learning judged by the district to be relevant and meaningful to students, parents, teachers, administrators, and taxpayers.

The local assessment system shall gather and report information about student learning on either a comprehensive or statistically valid sampling basis. To ensure quality and comparability across districts, the assessment system shall meet the NEASC standards on assessment. In addition, the board may establish other means for ensuring comparability across districts and for providing feedback to districts and schools aimed at improving assessment, teaching and learning, including rescoring samples of student work.

The local assessment system shall be comprised primarily of work samples and portfolios that predominantly include performance assessment items, and shall facilitate authentic and direct gauges of student performance. Performance assessment items include essays, tasks, projects, performances, exhibits, laboratory experiments, or other similar performance assessment items, administered on demand or as part of the ongoing student work in the class, that are intended in significant part to assess student acquisition of 21st century skills, defined as including the following: creativity, critical thinking, problem solving, communication and collaboration, media and information literacy, flexibility, initiative, social and cross-cultural skills and understandings, leadership, self-motivation and responsibility.

Each local evaluation and assessment system shall be approved by the school committee, or by the governing board of any school not under the direction and control of a school committee. Every school district or school must submit its proposed evaluation and assessment systems to the Department of Elementary and Secondary Education for review and approval prior to the implementation of said systems. The department shall establish criteria to use in its review and approval process. Local evaluation and assessment information may be used in any evaluation of school or district performance or progress, such as that described in Sections 1J and 1K of this Chapter.

In addition, each district or Commonwealth charter school, under procedures and guidelines established by the department, shall administer the following statewide standardized tests as part of its assessment system: reading or language arts tests in grades 3, 5 and 7 only; math tests in grades 4, 6 and 8 only; and the standardized end-of-course assessments described in Section 3. No other statewide standardized tests shall be given and the administration of such statewide standardized tests shall be limited to no more than five school days total in any school year; provided further, that the school, district and individual student scores for any statewide standardized tests must be reported to the school and district no later than the end of the school year in which the test was taken. Said statewide standardized tests shall be used for purposes of diagnosis, remediation, and assessment of the extent to which the school's students have acquired the skills, competencies and knowledge called for by the academic standards and embodied in the curriculum frameworks established by the board pursuant to sections 1D and 1E. They shall not be used to deny any student graduation, except as included in the competency determination described in Section D, or promotion to the next grade, except as one component of a comprehensive evaluation, or any other benefit of public education. Test scores shall be reported to each student and to his or her parents or guardians and shall be reported in the aggregate at the school and district level. Aggregate scores may be used as one component of any evaluation of school or district progress, such as that described in Section 1J of this Chapter.

Prior to the use of any state tests described in the previous paragraph, the tests shall be reviewed and approved by the state affiliate of the professional association representing the academic discipline, or their successors as the case may be, for each test, as described in Section 1D.

Notwithstanding any provision of this chapter to the contrary, reporting by the department of performance levels on the statewide standardized tests shall not include the term "failing" or any similar pejorative term.

The department shall provide professional development and training to teachers in the construction, use and scoring of performance assessment items. The department shall provide technical assistance to schools and school districts to develop performance assessments, as required by this section, including the development of models for local assessment systems. The department also shall work with schools,

118 districts, colleges and universities, and other states, to develop collections of high-quality performance
119 assessment items that schools and districts may use in classroom instruction and assessment.

120 The department shall provide technical assistance to schools and school districts to achieve the
121 accreditation and implement the evaluation systems required by this section, including the development of
122 models for local evaluation systems. The department shall fund the costs associated with achieving and
123 maintaining accreditation by the NEASC, including teacher reassign time, substitute teachers and other
124 staff participation costs associated with the accreditation process, as well as the costs associated with the
125 performance evaluation systems required by this section.

126 SECTION 6. Section 1I of chapter 69 of the General Laws, as so appearing, is hereby amended by
127 inserting the following paragraph at the end thereof:-

128 Each public school, including Commonwealth and Horace Mann charter schools, shall annually report to
129 the public how all its students have performed under the assessment system established by the district, or
130 by the school in the case of a Commonwealth charter school. Each district shall report how each of its
131 schools and the district as a whole have performed under the evaluation and assessment systems, and each
132 Commonwealth charter school shall similarly report. The reports shall be in a uniform format within each
133 school district, or within the school in the case of a Commonwealth charter school, and shall break down
134 the data by student status, including economically disadvantaged, race, gender, disability, English
135 proficiency, and such other categories as the district or school deems useful. The school report shall
136 include how each school's performance relates to its school improvement plan. The report also shall
137 include the school's progress in obtaining or renewing accreditation by the NEASC and results of the
138 statewide standardized test.

139 Each district shall compile and review the reports of each school. It shall evaluate the strengths, progress,
140 problems and needs for each school and the district as a whole, and submit a report to the department.
141 Each Commonwealth charter school shall submit its school evaluation report to the department. The
142 department shall review each district and Commonwealth charter school report and where it deems
143 appropriate make recommendations to the district or school and ensure the provision of resources and
144 other assistance designed to help each district or school improve. The department shall focus on providing
145 assistance to schools that are not accredited and or schools or districts whose reports indicate a
146 particularly urgent need for assistance. The nature and results of such recommendations and assistance
147 shall be included in subsequent school and district reports. These reports may be used as one component
148 of any evaluation of school or district progress, such as that described in Section 1J of this Chapter.

149 SECTION 7. Chapter 69 of the General Laws, as so appearing, is hereby amended by striking section 1J
150 and inserting in place thereof the following section:-

Section 1J. If, after four years from the beginning of the accreditation process, a school fails to achieve accreditation required by section 1D, fails to make significant progress toward accreditation, or is placed on probation status by the NEASC, the commissioner may appoint an independent fact-finding team to assess the reasons for the non-accreditation, failure to make progress or probation status, and the prospects for improvement. Upon review of the conclusions of the fact-finding team, the board may, according to regulations established by the board, declare the school chronically under-performing.

Upon a determination that a school is chronically under-performing, the following steps may be taken:

(1) The principal of the school may be immediately removed and may not be assigned to the school for the following school year if the board finds that the principal played a significant role in the under-performance of the school;

(2) The superintendent may designate a new principal for the school;

(3) If the school does not receive funding from the district at least equal to the average per pupil funding received for students of the same classification and grade level in the district, the district shall provide additional funding sufficient to bring funding for that school to such level;

(4) Such other actions determined by the board of elementary and secondary education, to be reasonably calculated to significantly increase the number of students attending the school who satisfy the student performance standards.

The department shall monitor the efforts and results of any actions taken pursuant to this section and continue to intervene, as it deems appropriate, until it determines that the school has made sufficient progress and is capable of continuing sufficient progress.

SECTION 9. Chapter 69 of the General Laws, as so appearing, is hereby amended by striking section 1K and inserting in place thereof the following section:-

Section 1K. If, after four years from the beginning of the accreditation process, more than one-third of the schools in a district fail to achieve accreditation required by section 1D, fail to make significant progress toward accreditation, or are placed on probation status by the NEASC, the commissioner shall appoint an independent fact-finding team to assess the reasons for the non-accreditation, failure to make progress or probation status, and the prospects for improvement. Upon review of the conclusions of the fact-finding team, the board may, according to regulations established by the board, declare the district chronically under-performing. Following such a declaration, the board shall designate a receiver for the district with all the powers of the superintendent and school committee or other applicable executive officer and governing board. The receiver shall report directly to the commissioner. At its option, the board may revoke the charter of the Commonwealth charter school. For purposes of this section, the term

“district” shall include a Commonwealth charter school. Said receivership shall continue until the board determines that the district or Commonwealth charter school has made sufficient progress and is capable of continuing sufficient progress.

If a municipality has failed to fulfill its fiscal responsibilities to education under chapter seventy, the commissioner shall recommend to the board that the district be declared chronically under-performing. The municipality's mayor or chairman of the board of selectmen shall have the opportunity to present evidence to the board. A vote by the board that a school district is chronically under-performing for fiscal reasons shall authorize the commissioner to petition the commissioner of revenue to require an increase in funds for the school district, alleging that the amount necessary in said community for the support of public schools has not been included in the annual budget appropriations. The commissioner of revenue shall determine the amount of any deficiency pursuant to the sums required under chapter seventy, if any, and issue an order compelling the community to provide a sum of money equal to such deficiency. If the community does not provide a sum of money equal to such deficiency, the commissioner of revenue, in accordance with his powers in section twenty-three of chapter fifty-nine, shall not approve the tax rate of the community for the fiscal year until the deficiency is alleviated. This section shall not be construed to create a cause of action for educational malpractice by students or their parents, guardians or persons acting as parents.

SECTION 10. The Commissioner of Elementary and Secondary Education shall select a panel of three experts from a list of nationally qualified experts in educational assessment provided by the National Research Council of the National Academy of Sciences, and two educators, one an elementary teacher and the other a secondary school teacher, from a list of experienced teachers provided by the Massachusetts Teachers Association and the AFT-Massachusetts, to perform a study of the validity, reliability, quality and age and language appropriateness of the statewide standardized tests established in section II. .

The Commissioner of Elementary and Secondary Education shall enter into a contract on behalf of the Department of Elementary and Secondary Education, with the selected panel of experts to conduct such a study. The Commissioner and the Department of Elementary and Secondary Education shall assist the panel in obtaining all information, documents or other evidence necessary to conduct the study.

The findings, conclusions and recommendations of the Commission shall be presented to the Board of Elementary and Secondary Education and to the Joint Committee on Education.